

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

In re:

**UNITED STATES OF AMERICA ex rel. DON
HANKS;**

08 Civ. 03096 (SJ)(RML)

Plaintiffs,

-against-

**ANSWER TO FIFTH AMENDED
COMPLAINT AND
AFFIRMATIVE DEFENSES**

U.S ONCOLOGY SPECIALTY, LLP, ET AL.;

Defendants.

Defendant Integrated Community Oncology Network, LLP ("ICON") by its attorneys Akerman LLP, answer the Fifth Amended Complaint of Plaintiff United States ex rel Don Hanks, and alleges on knowledge as to its own acts and otherwise on information and belief as follows herein, and states:

INTRODUCTION

1. Denies each and every allegation of paragraph 1 of the Fifth Amended Complaint, except admits that Plaintiff purports to seek such relief.

2. Neither admits nor denies the allegations as they allege legal conclusions to which no responsive pleading is required. Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a response is required, Defendant denies each and every allegation.

3. Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a response is required, Defendant denies each and every allegation.

4. Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a response is required, Defendant denies each and every allegation.

5. Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a response is required, Defendant denies each and every allegation.

6. Admits the first and second sentences of paragraph 6, admits anemia can cause death, denies that the explanations provided are adequate, and denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a response is required, Defendant denies each and every allegation.

7. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations which purport to summarize complex medical issues; admits that white blood cells serve as the body's primary defense against infections. To the extent a response is required, Defendant denies each and every allegation.

8. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations; admits that Medicare and Medicaid are well known. To the extent a response is required, Defendant denies each and every allegation.

9. Defendant neither admits nor denies the allegations in this paragraph as they purport to set forth legal conclusions and opinions to which no responsive pleading is required. To the extent a response is required, Defendant denies each and every allegation.

10. Denies as to ICON, denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

11. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

12. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

JURISDICTION AND VENUE

13. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

14. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

15. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

16. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

17. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

18. Defendant neither admits nor denies the allegations as they purport to set forth legal conclusions to which no responsive pleading is required. To the extent a response is required, Defendant denies each and every allegation.

19. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

THE PARTIES

A. Plaintiff/Relator.

20. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

21. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

22. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

23. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

24. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

B. [Allegations as to] Defendants.

25. Defendant neither admits nor denies the allegations in paragraph 25 which purports to describe future paragraphs and defendants. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation..

26. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

[ALLEGATIONS AS TO] FACTUAL ALLEGATIONS RELATED TO SPECIFIC DEFENDANTS

A. US Oncology Specialty, LP

27. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

28. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

29. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

30. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

31. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

32. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

33. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

B. Defendant Oncology Practices in Florida and Georgia.

34. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

[ALLEGATIONS AS TO] FLORIDA ONCOLOGY PRACTICES

35. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

36. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

37. Denies.

38. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

39. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

40. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

41. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

42. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

43. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

44. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

45. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

46. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

47 – 55: No allegations within the complaint.

56. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

57. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

GEORGIA ONCOLOGY PRACTICES

58 – 62. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

[PLAINTIFF'S] FACTUAL ALLEGATIONS.

A. [Allegations as to] Background.

63. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations which purport to explain complex these medical process and definitions. To the extent a response is required, Defendant denies each and every allegation.

64. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

65. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

66. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

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74. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

**[ALLEGATIONS AS TO] MARKETING OF ARANESP TO DEFENDANT
ONCOLOGY PRACTICES**

75. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

76. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

77. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

78. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

79. Denies.

80. Denies.

81. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of any of Amgen's activities; denies the remaining allegations as to ICON. To the extent a further response is required, Defendant denies each and every allegation.

82. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

83. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

84. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

85. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of any of Amgen's activities; denies the remaining allegations as to ICON. To the extent a further response is required, Defendant denies each and every allegation.

86. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

87. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

88. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

89. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

90. Denies allegations as to ICON; denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

91. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

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101. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

102. Denies allegations as to ICON; denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

103. Denies allegations as to ICON; denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

104. Denies allegations as to ICON; denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

105. Denies allegations as to ICON; denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

106. Denies allegations as to ICON; denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

107. Denies allegations as to ICON; denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

108. Defendant neither admits nor denies the allegations as they purport to set forth legal conclusions to which no responsive pleading is required. To the extent a response is required, Defendant denies each and every allegation

109. Denies.

110. Denies allegations as to ICON; denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

111. Denies allegations as to ICON; denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

112. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

113. Denies allegations as to ICON; denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

**[ALLEGATIONS AS TO] OVERSTATING COSTS TO INCREASE
REIMBURSEMENTS**

114. Admits.

115. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

116. Denies allegations as to ICON; denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

117. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

118. Denies allegations as to ICON; denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

[ALLEGATIONS AS TO] PAYMENTS FOR DRUGS FURNISHED BY PHYSICIANS.

119. Defendant neither admits nor denies the allegations as they purport to set forth legal conclusions to which no responsive pleading is required. To the extent a response is required, Defendants deny each and every allegation.

120. Defendant neither admits nor denies the allegations as they purport to set forth legal conclusions to which no responsive pleading is required. To the extent a response is required, Defendants deny each and every allegation.

121. Defendant neither admits nor denies the allegations as they purport to set forth legal conclusions to which no responsive pleading is required. To the extent a response is required, Defendants deny each and every allegation.

122. Denies allegations as to ICON; denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

123. Denies allegations as to ICON; denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

124. Defendant neither admits nor denies the allegations as they purport to set forth legal conclusions to which no responsive pleading is required. To the extent a response is required, Defendants deny each and every allegation.

125. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

126. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

127. Denies allegations as to ICON; denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

128. Denies allegations as to ICON; denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

**[ALLEGATIONS AS TO] RULES ON ACCEPTANCE OF DISCOUNTS IN
HEALTHCARE SERVICES.**

129. Defendant neither admits nor denies the allegations as they purport to set forth legal conclusions to which no responsive pleading is required. To the extent a response is required, Defendants deny each and every allegation.

130. Defendant neither admits nor denies the allegations as they purport to set forth legal conclusions to which no responsive pleading is required. To the extent a response is required, Defendants deny each and every allegation.

131. Defendant neither admits nor denies the allegations as they purport to set forth legal conclusions to which no responsive pleading is required. To the extent a response is required, Defendants deny each and every allegation.

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138. Defendant neither admits nor denies the allegations as they purport to set forth legal conclusions to which no responsive pleading is required. To the extent a response is required, Defendants deny each and every allegation.

139. Defendant neither admits nor denies the allegations as they purport to set forth legal conclusions to which no responsive pleading is required. To the extent a response is required, Defendants deny each and every allegation.

140. Defendant neither admits nor denies the allegations as they purport to set forth legal conclusions to which no responsive pleading is required. To the extent a response is required, Defendants deny each and every allegation.

141. Denies allegations as to ICON; denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

142. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

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152. Denies allegations as to ICON; denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

153. Denies allegations as to ICON; denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

**[ALLEGATIONS AS TO] FRAUDULENT REPORTING OF ASP BY DEFENDANT
ONCOLOGY PRACTICES**

154. Defendant neither admits nor denies the allegations as they purport to set forth legal conclusions to which no responsive pleading is required. To the extent a response is required, Defendants deny each and every allegation

155. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

156. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

157. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

158. Denies allegations as to ICON; denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

159. Denies allegations as to ICON; denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

160. Denies allegations as to ICON; denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

161. Denies.

[ALLEGATIONS AS TO] OVERPRESERIBIUG [SIC] OF THE COVERED DRUGS

162. Denies.

163. Denies.

164. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

165. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations. To the extent a further response is required, Defendant denies each and every allegation.

166. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

167. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

168. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

169. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

171. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

172. Defendant neither admits nor denies the allegations as they purport to set forth legal conclusions to which no responsive pleading is required. To the extent a further response is required, Defendant denies each and every allegation.

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193. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

193. [sic] Denies allegations as to ICON; denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

194. Denies allegations as to ICON; denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

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210. Defendant neither admits nor denies the allegations as they purport to set forth legal conclusions to which no responsive pleading is required; denies as to ICON. To the extent a further response is required, Defendant denies each and every allegation.

211. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

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250. Denies allegations as to ICON; denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

251. Denies allegations as to ICON; denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

252. Denies.

253. ICON realleges and incorporates its responses to the allegations of paragraphs 1-229 of the complaint.

231. [sic] Defendant neither admits nor denies the allegations as they purport to set forth legal conclusions to which no responsive pleading is required; denies as to ICON. To the extent a further response is required, Defendant denies each and every allegation. 232. [sic] Denies as to ICON; without knowledge as to the remaining defendants. Denies allegations as to ICON; denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

233. [sic] Denies as to 233 and each and every allegation and subparagraph in allegation 233.

234. [sic] Denies.

235 [sic] to 242 – no response necessary; if one is necessary; denies each and every allegation.

243. ICON realleges and incorporates its responses to the allegations of paragraphs 1-242 of the complaint.

244. Defendant neither admits nor denies the allegations as they purport to set forth legal conclusions to which no responsive pleading is required; denies as to ICON. To the extent a further response is required, Defendant denies each and every allegation.

245. Denies allegations as to ICON; denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

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250. Denies allegations as to ICON; denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

251-337. With respect to paragraphs 251 through 337, No response appears to be necessary from ICON. To the extent one is necessary from ICON, ICON denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations. To the extent a further response is required, Defendant denies each and every allegation.

[PLAINTIFF'S] PRAYER FOR RELIEF

a. through r:

Defendant ICON denies that Plaintiff is entitled to any relief under either the facts or the law of this case and demands a trial by jury on Plaintiff's claims.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

1. Venue is improper in New York as to ICON.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

2. The complaint fails to state a claim for which relief can be granted with respect to any of its counts against ICON.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

3. Plaintiff has received complete damages for any violations of state or federal law alleged through his settlement with Amgen.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

4. Plaintiff has unclean hands and cannot benefit from his own false, or illegal, or unethical, or deceptive or such similar actions.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

5. To the extent that there is liability, plaintiff must disgorge his profits for creating the fraud and perpetrating it.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

6. The complaint must be dismissed as being beyond the statute of limitations.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

7. Plaintiff has failed to allege fraud with the necessary specificity.
8. ICON reserves the right to amend and supplement its affirmative defenses as

discovery proceeds.

Dated: August 1, 2014
New York, New York

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(motion *pro hac vice* pending)

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